

EOD

09/27/2005

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:

BARRY & BARRY SAND
COMPANY, INC.

Debtor

§
§
§
§
§
§

Case No. 01-10989

Chapter 7

**ORDER GRANTING APPLICATION OF GARY W. COKER
FOR ALLOWANCE OF COMPENSATION AND
REIMBURSEMENT OF EXPENSES
AS BANKRUPTCY COUNSEL TO CHAPTER 7 TRUSTEE**

On the 23rd day of June, 2005, came on for hearing the "Application for Compensation for Counsel for the Chapter 7 Trustee Pursuant to 11 U.S.C. Section 330" (the "Application") filed by Gary W. Coker (the "Applicant") in the above-referenced case. The Court finds that appropriate notice of the Application and the hearing was given according to the Federal and Local Rules of Bankruptcy Procedure. The Court, having reviewed the Application and all objections thereto, concludes that the objections are without merit and should be overruled.

The Court acknowledges that the administrative expenses incurred by this estate are considerable and may preclude any eventual distribution to the class of unsecured creditors. Such a circumstance is heavily discouraged and must be subjected to greater scrutiny. In this instance, this was a highly unusual case involving a closely-held corporation engaged in the sand business which had been effectively pilfered for years by

overreaching stockholders from the same family who utilized the corporation for their own personal profit where available and as a weapon against other family members. This was the dire circumstance that the Trustee and his professionals inherited and, while certain criticisms of their administration of the case may have some merit, there is little, if any, evidence that the estate professionals placed their personal financial interests over that of the estate. The professionals explored all feasible avenues to obtain a sales price for the business high enough to result in a creditor dividend. However, such avenues were substantially hindered by the various inter-family squabbles and by the asset structure of the business itself, including its lease obligations to certain of those insiders. Notwithstanding such hindrances, ongoing obligations were met, employees maintained their jobs, and the business was eventually transferred to new ownership, although at a price considerably less than that for which the Trustee originally hoped. This case presented broader problems than just a mere evaluation of the propriety of litigation and circumstances effectively prevented the Trustee and his professionals from making an accurate cost-benefit analysis at various stages of the case and avoid the administrative insolvency issues which the estate currently faces. Thus, despite the fact that a distribution to unsecured creditors is now doubtful, that development cannot be rightly placed upon the Trustee and his professionals. Thus, the Court does not believe that a


reduction of fees is warranted, except that which might otherwise arise from a normal examination of a fee application under §330.

The Court, having reviewed the Application and determined whether the services and expenses as outlined in the application were actual, reasonable and necessary in representing the interests of the Chapter 7 Trustee, finds that a reduction of 20.90 attorney hours is justified for excessive time having been billed for the work described and that a reduction of 10.60 attorney hours is justified for services rendered on behalf of this Estate for which the benefit to the Estate is unclear or undemonstrated. The Court further finds that a reduction of 12.20 hours is warranted for other services which were so insufficiently described as to effectively preclude the Court from evaluating the reasonableness and necessity of such services and for which the benefit to the Estate is therefore unclear or undemonstrated. Accordingly, the Court finds that just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that Gary W. Coker, as bankruptcy counsel for the Chapter 7 Trustee in the above-referenced case, is hereby awarded the sum of \$50,295.00 as reasonable compensation for actual and necessary services rendered to the Chapter 7 Estate and reimbursement for actual and necessary expenses in the amount of \$4,301.45, for a total award of \$54,596.45 for services rendered during the Chapter 7

phase of this case which the Chapter 7 Trustee shall pay from available funds to Gary W. Coker; provided sufficient funds are available in the estate to pay all Chapter 7 administrative claims. In the event that there are not sufficient funds to pay all allowed Chapter 7 administrative claims, such claims shall be paid on a pro rata basis.

Signed on 9/27/2005



THE HONORABLE BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

EOD

09/27/2005

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:	§	
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BARRY & BARRY SAND	§	Case No. 01-10989
COMPANY, INC.	§	
	§	
Debtor	§	Chapter 7

**ORDER GRANTING AMENDED APPLICATION OF
GARY W. COKER FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES
AS BANKRUPTCY COUNSEL TO CHAPTER 11 TRUSTEE**

On the 23rd day of June, 2005, came on for hearing the "Amended Application for Compensation for Counsel for the Chapter 11 Trustee Pursuant to 11 U.S.C. Section 330" (the "Application") filed by Gary W. Coker (the "Applicant") in the above-referenced case. The Court finds that appropriate notice of the Application and the hearing was given according to the Federal and Local Rules of Bankruptcy Procedure. The Court, having reviewed the Application and all objections thereto, concludes that the objections are without merit and should be overruled.

The Court acknowledges that the administrative expenses incurred by this estate are considerable and may preclude any eventual distribution to the class of unsecured creditors. Such a circumstance is heavily discouraged and must be subjected to greater scrutiny. In this instance, this was a highly unusual case involving a closely-held corporation engaged in the sand business which had been effectively pilfered for years by

overreaching stockholders from the same family who utilized the corporation for their own personal profit where available and as a weapon against other family members. This was the dire circumstance that the Trustee and his professionals inherited and, while certain criticisms of their administration of the case may have some merit, there is little, if any, evidence that the estate professionals placed their personal financial interests over that of the estate. The professionals explored all feasible avenues to obtain a sales price for the business high enough to result in a creditor dividend. However, such avenues were substantially hindered by the various inter-family squabbles and by the asset structure of the business itself, including its lease obligations to certain of those insiders. Notwithstanding such hindrances, ongoing obligations were met, employees maintained their jobs, and the business was eventually transferred to new ownership, although at a price considerably less than that for which the Trustee originally hoped. This case presented broader problems than just a mere evaluation of the propriety of litigation and circumstances effectively prevented the Trustee and his professionals from making an accurate cost-benefit analysis at various stages of the case and avoid the administrative insolvency issues which the estate currently faces. Thus, despite the fact that a distribution to unsecured creditors is now doubtful, that development cannot be rightly placed upon the Trustee and his professionals. Thus, the Court does not believe that a

reduction of fees is warranted, except that which might otherwise arise from a normal examination of a fee application under §330.

The Court, having reviewed the Application and determined whether the services and expenses as outlined in the application were actual, reasonable and necessary in representing the interests of the Chapter 11 Trustee, finds that a reduction of 7.40 attorney hours is justified for excessive time having been billed for the work described and that a reduction of 2.30 attorney hours is justified for services rendered on behalf of this Estate for which the benefit to the Estate is unclear or undemonstrated. The Court further finds that a reduction of 10.90 hours is warranted for other services which were so insufficiently described as to effectively preclude the Court from evaluating the reasonableness and necessity of such services and for which the benefit to the Estate is therefore unclear or undemonstrated. Accordingly, the Court finds that just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that Gary W. Coker, as bankruptcy counsel for the Chapter 11 Trustee in the above-referenced case, is hereby awarded the sum of \$26,897.50 as reasonable compensation for actual and necessary services rendered to the Chapter 11 Estate and reimbursement for actual and necessary expenses in the amount of \$1,023.18, for a total award of \$27,920.68 for services rendered during the Chapter 11

phase of this case.

IT IS FURTHER ORDERED that such professional is authorized to withdraw from any retainer which he might hold such funds as may be necessary to pay the amounts awarded to him pursuant to this Order and all unpaid amounts shall be paid as a Chapter 11 administrative expense in the priority prescribed for pre-conversion administrative expenses by §726(b) of the Bankruptcy Code.

Signed on 9/27/2005



THE HONORABLE BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

EOD

09/27/2005

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:	§	
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BARRY & BARRY SAND	§	Case No. 01-10989
COMPANY, INC.	§	
	§	
Debtor	§	Chapter 7

**ORDER GRANTING APPLICATION OF
COOK, SHAVER, PARKER & WILLIAMS
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT
OF EXPENSES AS ACCOUNTANTS TO CHAPTER 7 TRUSTEE**

On the 23rd day of June, 2005, came on for hearing the "Application for Compensation of Accountant for the Chapter 7 Trustee Pursuant to 11 U.S.C. Section 330" (the "Application") filed by Walter Snider, Chapter 7 Trustee (the "Applicant") in the above-referenced case. The Court finds that appropriate notice of the Application and the hearing was given according to the Federal and Local Rules of Bankruptcy Procedure. The Court, having reviewed the Application and all objections thereto, concludes that the objections are without merit and should be overruled. The Court further finds that the amounts requested in the Application must be reduced by \$6,791.00, arising from what appears to be an arithmetic error by the Applicant, but which otherwise pertain to services which remain unexplained or undocumented. Accordingly, the Court finds that just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that Cook, Shaver, Parker & Williams, as accountants for the Chapter 7 Trustee in the above-referenced case, is hereby awarded the

sum of \$42,839.00 as reasonable compensation for actual and necessary services rendered to the Chapter 7 Estate and reimbursement for actual and necessary expenses in the amount of \$439.32, for a total award of \$43,278.32 for services rendered during the Chapter 7 phase of this case which the Chapter 7 Trustee shall pay from available funds to Cook, Shaver, Parker & Williams; provided sufficient funds are available in the estate to pay all Chapter 7 administrative claims. In the event that there are not sufficient funds to pay all allowed Chapter 7 administrative claims, such claims shall be paid on a pro rata basis.

Signed on 9/27/2005



THE HONORABLE BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

EOD

09/27/2005

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:	§	
	§	
BARRY & BARRY SAND	§	Case No. 01-10989
COMPANY, INC.	§	
	§	
Debtor	§	Chapter 7

**ORDER GRANTING AMENDED APPLICATION OF
COOK, SHAVER, PARKER & WILLIAMS
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT
OF EXPENSES AS ACCOUNTANTS TO CHAPTER 11 TRUSTEE**

On the 23rd day of June, 2005, came on for hearing the "Amended Application for Compensation of Accountant for the Chapter 11 Trustee Pursuant to 11 U.S.C. Section 330" (the "Application") filed by Walter Snider, Chapter 7 Trustee (the "Applicant") in the above-referenced case. The Court finds that appropriate notice of the Application and the hearing was given according to the Federal and Local Rules of Bankruptcy Procedure. The Court, having reviewed the Application and all objections thereto, concludes that the objections are without merit and should be overruled, and in light of the fact that the Application requests payment for fees and expenses in an amount less than that otherwise authorized under a complete lodestar analysis, the Court finds that just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that Cook, Shaver, Parker & Williams, as accountants for the Chapter 11 Trustee in the above-referenced case, is hereby awarded the sum of \$23,468.75 as reasonable compensation for actual and necessary services

rendered to the Chapter 11 Estate and reimbursement for actual and necessary expenses in the amount of \$213.73, for a total award of \$23,682.48 for services rendered during the Chapter 11 phase of this case.

IT IS FURTHER ORDERED that such professional firm is authorized to withdraw from any retainer which it might hold such funds as may be necessary to pay the amounts awarded to it pursuant to this Order and all unpaid amounts shall be paid as a Chapter 11 administrative expense in the priority prescribed for pre-conversion administrative expenses by §726(b) of the Bankruptcy Code.

Signed on 9/27/2005



THE HONORABLE BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

EOD

09/27/2005

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:	§	
	§	
BARRY & BARRY SAND	§	Case No. 01-10989
COMPANY, INC.	§	
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Debtor	§	Chapter 7

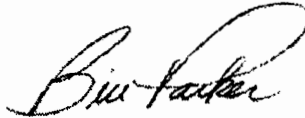
**ORDER GRANTING APPLICATION OF NICHOLAS S. BALDO
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT
OF EXPENSES AS SPECIAL COUNSEL TO CHAPTER 11 TRUSTEE**

On the 23rd day of June, 2005, came on for hearing the "Application for Compensation of Nicholas S. Baldo as Attorney for Chapter 7 Trustee for Representation in Silicosis Litigation Pursuant to 11 U.S.C. Section 330" (the "Application") filed by Walter Snider, Chapter 7 Trustee (the "Applicant") in the above-referenced case. The Court finds that appropriate notice of the Application and the hearing was given according to the Federal and Local Rules of Bankruptcy Procedure. The Court, having reviewed the Application and all objections thereto, and determined whether the services and expenses as outlined in the application were actual, reasonable and necessary, finds that a reduction of 3.60 hours is justified for excessive time having been billed for the work described and that a reduction of 4.00 hours is justified for services rendered on behalf of this Estate for which the benefit to the Estate is unclear or undemonstrated. The Court further finds that 4.00 attorney hours should be compensated at the paraprofessional rate of \$65.00/hr for services more properly characterized as paraprofessional services. Accordingly, just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that Nicholas S. Baldo, as special counsel to the Chapter 11 Trustee in the above-referenced case, is hereby awarded the sum of \$5,360.00 as reasonable compensation for actual and necessary services rendered to the Chapter 11 Estate and reimbursement for actual and necessary expenses in the amount of \$1,316.25, for a total award of \$6,676.25 for services rendered during the Chapter 11 phase of this case.

IT IS FURTHER ORDERED that such professional is authorized to withdraw from any retainer which he might hold such funds as may be necessary to pay the amounts awarded to him pursuant to this Order and all unpaid amounts shall be paid as a Chapter 11 administrative expense in the priority prescribed for pre-conversion administrative expenses by §726(b) of the Bankruptcy Code.

Signed on 9/27/2005



THE HONORABLE BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

EOD

09/27/2005

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:

BARRY & BARRY SAND
COMPANY, INC.

Debtor

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Case No. 01-10989

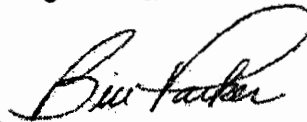
Chapter 7

**ORDER GRANTING APPLICATION OF NICHOLAS S. BALDO
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT
OF EXPENSES AS SPECIAL COUNSEL TO CHAPTER 7 TRUSTEE**

On the 23rd day of June, 2005, came on for hearing the "Application for Compensation of Nicholas S. Baldo as Attorney for Chapter 7 Trustee for Representation in Silicosis Litigation Pursuant to 11 U.S.C. Section 330" (the "Application") filed by Walter Snider, Chapter 7 Trustee (the "Applicant") in the above-referenced case. The Court finds that appropriate notice of the Application and the hearing was given according to the Federal and Local Rules of Bankruptcy Procedure. Upon review of the application and all objections filed thereto, the Court finds that the services and expenses as outlined in the Application were actual, reasonable and necessary. Accordingly, just cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that Nicholas S. Baldo, as special counsel to the Chapter 7 Trustee in the above-referenced case, is hereby awarded the sum of \$750.00 as reasonable compensation for actual and necessary services rendered to the Chapter 7 Estate and reimbursement for actual and necessary expenses in the amount of \$193.10, for a total award of \$943.10; provided sufficient funds are available in the estate to pay all Chapter 7 administrative claims. In the event that there are not sufficient funds to pay all allowed Chapter 7 administrative claims, such claims shall be paid on a pro rata basis.

Signed on 9/27/2005



THE HONORABLE BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF TX
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FEDERAL U.S. BANKRUPTCY
COURT

IN RE:

BARRY & BARRY SAND COMPANY,
INC.

Debtor

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§CASE NO. 01-10989
CHAPTER 7

BY _____ DEPUTY

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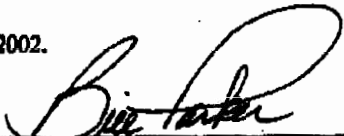
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ORDER ALLOWING ADMINISTRATIVE EXPENSE

On this day came on to be heard the application of Pitts Transport, Inc., for allowance of an administrative expense. The Court finds that proper notice of such Application was given and that all objections to same have been withdrawn. The Court also finds that the Trustee has made a payment to the Applicant in the amount of \$3,674.79 and that the amount allowed should therefore be reduced from \$55,553.59 to \$51,878.80. It is therefore,

ORDERED that Pitts Transport, Inc. is allowed a §507(a)(1) administrative expense in the amount of \$51,878.80 for services rendered between June 7, 2001 and December 5, 2001.

SIGNED this 19th day of December, 2002.



U. S. BANKRUPTCY JUDGE PRESIDING